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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09 965,826 | 10 01 2001 | Hiroto Higuchi | 213812US0 | 3984 |

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| EXAMINER |
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GOODROW, JOHN L.

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| ART UNIT | PAPER NUMBER |
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1756

DATE MAILED: 10/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on _____

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-36 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- Claim(s) _____ is/are allowed.
- Claim(s) _____ is/are rejected.
- Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-36 are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved _____ disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number)

received in this national stage application from the International Bureau, PCT No. _____

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

Interview Summary, PTO-413

Notice of References Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Office Action Summary

Art Unit 1756

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-23, drawn to toner, classified in Class 430, subclass 108.3.

II. Claims 33-35, drawn to a method of fixing a toner image, classified in Class 430, subclass 124.

2. III. Claims 24-32 and 36, drawn to apparatus and a device utilized in developing latent electrostatic images, classified in Class 399, subclass 200+.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the toner composition can be utilized in a different electrophotographic process such as flash fusing.

4. Inventions II and III are related as process and

practiced by a materially different apparatus or by hand,

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or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process can utilize other cartridges or apparatus and does not need a magnetic field in the fixing of the electrostatic toner.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Mr. Treanor on 10/10/02 to request an oral election to the above restriction requirement, but did not result in an election being made.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

J. Goodrow:cdc

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October 22, 2002